

Message Text

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PAGE 01 QUITO 03935 132327Z

71

ACTION DLOS-07

INFO OCT-01 ARA-16 ISO-00 IO-14 CG-00 CIAE-00 DODE-00

PM-07 H-03 INR-10 L-03 NSAE-00 NSC-07 PA-04 RSC-01

PRS-01 SP-03 SS-20 CEQ-02 COA-02 COME-00 EB-11 EPA-04

NSF-04 SCI-06 FEA-02 AGR-20 DOTE-00 FMC-04 INT-08

JUSE-00 OMB-01 ACDA-19 AEC-11 DRC-01 /192 W

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P 132242Z JUN 74

FM AMEMBASSY QUITO

TO SECSTATE WASHDC PRIORITY 1369

USIA WASHDC PRIORITY

UNCLAS QUITO 3935

USIA FOR IOR/IOP/ILA

E.O. 11652: N/A

TAGS: PBOR, EC

SUBJECT: FORMER FONMIN ATTACKS ECUADOREAN LOS POSITION

1. FORMER FOREIGN MINISTER JULIO PRADO VALLEJO COMMENTS
IN OPPOSITE EDITORIAL PAGE COLUMN EL TIEMPO JUNE 11 ON
APPROACHING LOS CONFERENCE CARACAS AND SAYS: "FORTHCOMING
CARACAS CONFERENCE WILL EXAMINE A PROJECT PRESENTED BY ECUADOR,
JOINTLY WITH PANAMA AND PERU, ON THE LAW OF THE SEA. AN
OBSERVER'S FIRST REFLECTION ON READING IT IS THAT IT WILL BE
ROUNDLY DEFEATED."

2. PRADO VALLEJO CONTINUES TO SAY: "WE KNOW THAT THE THESIS
OF THE 200 MILE TERRITORIAL SEA IS BOUND TO FAIL IN THE
INTERNATIONAL COMMUNITY. BUT THE PROBLEM CANNOT BE SOLVED
BY CHANGING NAMES AND SUBSTITUTING THE NAME OF TERRITORIAL
SEA WITH THE ONE OF ADJACENT SEA AND THE ONE OF HIGH SEAS
WITH THE ONE OF INTERNATIONAL SEA. WHAT IS LACKING ARE
JURIDICAL CONCEPTS AND NOT NAMES. FURTHERMORE, IT IS
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PAGE 02 QUITO 03935 132327Z

NAIVE TO THINK THAT, AT THIS STAGE IN THE DEVELOPMENT

OF INTERNATIONAL LAW, YOU COULD CHANGE, THROUGH A SIMPLE DRAFT RESOLUTION, THESE OLD AND TRADITIONAL INSTITUTIONS ADOPTED AND DEFENDED DURING CENTURIES BY THE COMMUNITY OF NATIONS. THEREFORE THE PROPOSAL PRESENTED DOES NOT SEEM FEASIBLE".

3. PRADO VALLEJO ADDS: "THE PROJECT IS IMPRECISE, CONFUSING, HESITANT, VAGUE. IT TRIES TO DISGUISE WITH EXPRESSIONS AND PHRASES THE POINTS THAT HAVE IMPLICATIONS, BOTH EXTERNAL AND INTERNAL, IN THE JURIDICAL FIELD THUS IN ARTICLE ONE IT REFUSES TO TALK ABOUT TERRITORIAL SEA BUT CLAIMS SOVEREIGNTY AND JURISDICTION OVER AIR SPACE. BASED ON WHAT PRINCIPLE?"

4. THE EDITORIAL ANALYS THIS NOTION AND CONTINUES: "IN ARTICLE ONE IT SAYS THAT 'VESSELS UNDER ANY FLAG WILL BE ABLE TO SAIL FREELY THROUGH THE ADJACENT SEA'. IN OTHER WORDS, IT REFUSES TO RECOGNIZE FREE NAVIGATION AND SIMPLY TALKS OF FREE TRANSIT. AND BY USING THE EXPRESSION "WILL BE ABLE", IT BECOMES OPTIONAL ON THE PART OF THE COASTAL STATE, AS IF FREE NAVIGATION WOULD BE A GRACIOUS

CONCESSION OF THE SAME. AND ALL THIS BECAUSE THE TRADITIONAL CONCEPT OF TERRITORIAL SEA IS INCOMPATIBLE WITH THAT OF FREE NAVIGATION. ALL THIS IS AN EASILY-UNCOVERED JUGGLING OF WORDS.

5. "TO TELL THE TRUTH", HE GOES ON, "IT SEEMS IMPOSSIBLE TO THINK THAT IN CARACAS SUCH A POSITION WILL BE ACCEPTED. THE MUTILATION OF THE PRINCIPLE OF FREE NAVIGATION IS AGAINST THE INTERESTS OF THE INTERNATIONAL COMMUNITY. FURTHERMORE, IN ARTICLE 4 IT SAYS THAT VESSELS COULD SAIL FREELY "WITHOUT ANY OTHER RESTRICTIONS THAN THOSE IMPOSED BY THE DUTIES OF PEACEFUL COEXISTENCE (CONVIVENCIA). AND HERE THE PROJECT REACHES THE CLIMAX OF ITS LUXURIANT RHETORIC. WHAT ARE THESE CONDITIONS IMPOSED BY PEACEFUL COEXISTENCE? WHERE ARE THEY STATED? WHAT INTERNATIONAL LAW HAS PROCLAIMED THEM? WHAT ARE THEY? WE NEVER KNEW THAT FREE TRANSIT COULD BE RESTRICTED BY THE DUTIES OF PEACEFUL COEXISTENCE".

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PAGE 03 QUITO 03935 132327Z

6. "IN OTHER WORDS, THE PROJECT NOT ONLY REFUSES TO RECOGNIZE THE IRREVOCABLE PRINCIPLE OF FREE NAVIGATION, BUT SUBJECTS IT TO A GENERIC CONCEPT, VAGUE AND UNDEFINED, OF 'DUTIES OF PEACEFUL COEXISTENCE'. BUT SINCE, ACCORDING TO THE CLASSIC CONCEPT, TERRITORIAL SEA CANNOT ADMIT FREE NAVIGATION BUT ONLY INNOCENT PASSAGE, AND SINCE IT WOULD BE ABSURD TO IMPOSE IT TO THE FULL EXTENT OF 200 MILES,

ARTICLE 5 GOES ON TO TALK ABOUT 'ADDITIONAL REGULATIONS' FOR TRANSIT 'WITHIN AN AREA CLOSE TO THE COASTS', ATTEMPTING TO CHANGE JURIDICAL NOMENCLATURE IN THE DESIRE OF NOT MENTIONING 'INNOCENT PASSAGE'. ALL THESE DIALECTIC DISTORTIONS AND CONTORTIONS COME ABOUT BECAUSE OF THE REFUSAL TO ADMIT A SIMPLER POSITION, CLEARER, BETTER DEFINED AND FIRMER, SUCH AS THAT OF INNOCENT PASSAGE WITHIN TWELVE MILES AND FREE NAVIGATION IN THE REMAINING 188, UNDER A NEW CONCEPT OF TERRITORIAL SEA".
BREWSTER

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: LAW OF THE SEA, TERRITORIAL SEA LIMIT, FREEDOM OF NAVIGATION, PRESS COMMENTS, FOREIGN POLICY POSITION
Control Number: n/a
Copy: SINGLE
Draft Date: 13 JUN 1974
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: n/a
Disposition Approved on Date:
Disposition Authority: n/a
Disposition Case Number: n/a
Disposition Comment:
Disposition Date: 01 JAN 1960
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1974QUITO03935
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D740153-1080
From: QUITO
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1974/newtext/t19740648/aaaabozg.tel
Line Count: 125
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION DLOS
Original Classification: UNCLASSIFIED
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators: n/a
Previous Classification: n/a
Previous Handling Restrictions: n/a
Reference: n/a
Review Action: RELEASED, APPROVED
Review Authority: shawdg
Review Comment: n/a
Review Content Flags:
Review Date: 17 SEP 2002
Review Event:
Review Exemptions: n/a
Review History: RELEASED <17 SEP 2002 by PhilliR0>; APPROVED <15 JAN 2003 by shawdg>
Review Markings:

Declassified/Released
US Department of State
EO Systematic Review
30 JUN 2005

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: FORMER FONMIN ATTACKS ECUADOREAN LOS POSITION
TAGS: PBOR, EC, (VALLEJO, JULIO PRADO)
To: STATE USIA
Type: TE
Markings: Declassified/Released US Department of State EO Systematic Review 30 JUN 2005